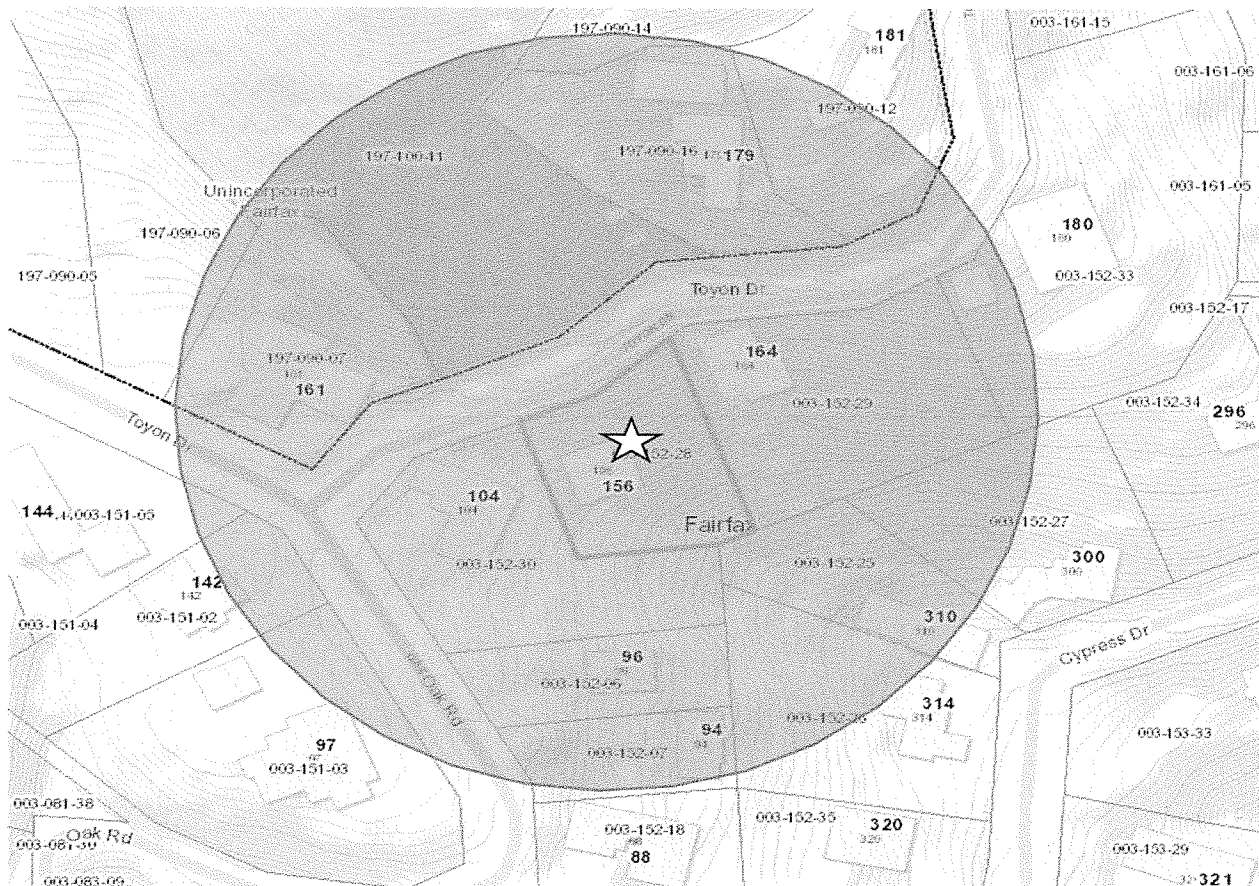


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: March 30, 2017
FROM: Michelle Levenson, Zoning Technician
LOCATION: 156 Toyon Drive; Assessor' Parcel No. 003-152-28
ZONING: Residential Single Family RS 6
PROJECT: Install a Storage Space (247 square feet)
ACTION: Application No. 17-09; Conditional Use Permit
APPLICANT: Owen Gump
OWNERS: Carl C. Diehl and Nancy Gump
CEQA STATUS: Categorically Exempt, §15301(a)



156 Toyon Drive

BACKGROUND

The 10,900-square-foot (0.25-acre) site slopes down from Toyon Drive at a rate of 39-percent. The site is developed with a 1,860-square-foot, two-story, single-family residence containing 4 bedrooms and 2.5 bathrooms, as well as 465 square feet of unconditioned, under floor area.

DISCUSSION

The applicant is proposing to convert 247 square feet of unconditioned, under floor area to storage space. Improvements to the space have, for the most part, already been installed. Improvements include three windows, electrical (one overhead light socket and two outlets), drywall, insulation, plywood subflooring and a dividing wall. The project would involve legalizing the storage space and improvements.

The project conforms to the Single Family Residential RS 6 Zone District regulations as follows:

	Front setback	Rear setback	Combined front/rear setback	Side setbacks	Combined side setbacks	FAR	Lot coverage	Height
Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 ft., 3 stories
Existing	0 ft.	40 ft.	40 ft.	9 ft. & 51 ft.	60 ft.	.17	.08	40 ft., 3 stories
Proposed	No change	No change	No change	No change	No change	No change	.25	No change

Conditional Use Permit:

Town Code § 17.084.050 requires that a Conditional Use Permit be obtained prior to any expansion/modification of a property or residence on a parcel that does not meet the minimum size and width requirements based on the slope of the site. The average slope of the site is 38-percent, therefore the Town Code requires a minimum area of 30,000 square feet and a minimum width of 134 feet. At 10,900 square feet in area and 134 feet in width, the site does not meet the minimum area or minimum width requirements, therefore the project requires the approval of a Use Permit by the Planning Commission.

In order to approve a Use Permit for the project, the Commission must be able to make the following findings (Town Code Section 17.032.060): (1) granting of the approval would not constitute a "special privilege" nor contravene the doctrines of equity and equal treatment; (2) the project would not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical

or economic effects or create undue or excessive burdens in the use or enjoyment of the property; (3) implementation of the project would not result in the property or the structure being out of scale with the site, or out of character with the neighboring properties; (4) approval of the project is in keeping with the objectives, goals or standards set forth in the Town of Fairfax General Plan; and (5) approval of the project would result in equal or better development of the premises than would otherwise be the case and the approval is in the public interest and for the protection and enhancement of the community.

The area that would be improved and used for storage purposes is located underneath the first floor of the residence. Because the exterior walls of the area extend more than 3 feet above grade, the area is not considered a “basement” under Town Code Section 17.008.020. At 7 feet 2 inches, the height of the ceilings in the storage area would meet the Building Code minimum requirement of 7 feet. Installation of modest improvements including limited electrical, drywall, insulation, plywood flooring and two windows would enable use of the area for storage of moisture-sensitive materials such as documents and photographs.

As is typical in the Town of Fairfax, the residences contain limited space for storage. Converting a portion of an existing, enclosed space for storage purposes would provide the owners with a “privilege” that is enjoyed by many Town residents and would increase the usability of the residence. The project would not create a public nuisance as the improvements would be limited to existing, enclosed space and would be designed to limit the use of the area for storage. The project would be consistent with the Town General Plan and would result in enhanced use of the site, resulting in better development of the site.

The storage area would maintain distances from the neighboring homes at 164 Toyon Road of 68 feet, 104 Toyon Road of 29 feet and 310 Upper Cypress Drive of 56 feet. No windows are proposed that face either 164 Toyon Road or 104 Toyon Road; the 2 windows facing 310 Cypress Drive are located at an elevation of 440 feet (as measured from the bottom of the window) and the rear elevation of 310 Cypress Drive is 408 feet, an elevational difference of 32 feet (Attachment B – Distance and Elevation Maps). Planning Staff visited 310 Cypress Drive and observed that the views into the lower bedroom and spa are achievable from the new windows, minimizing privacy for the residents of 310 Cypress Drive (Attachment C). The Planning Commission should determine whether the project should be conditioned such that an opaque treatment be applied to the windows or that the windows be replaced with a clear-story type window, minimizing views into the neighboring property.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD): The RVFD provided the following comments regarding the project:

- (1) The required water flow of the closest hydrant shall be a minimum of 10,000

gallons per minute. Per WUI code Section 101.5, additions and alterations can be made to existing buildings when the building meets the current code. To meet current code for this project, the fire flow would need to be increased or a 50% reduction is permitted when the building is equipped throughout with an automatic fire sprinkler system.

- (2) Maintain around the structures an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Contact the Ross Valley Fire Department for more information.
- (3) All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
- (4) Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs or additions that exceed one thousand dollars. CO alarms shall be located outside of each dwelling unit sleeping area, in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit, including a basement.
- (5) Address numbers at least 4-inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally laminated (backlit), placed to a light or be reflective numbers.
- (6) Applicant may propose alternate materials or methods in accordance with Section 103.3. All approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

The Marin Municipal Water District (MMWD), Ross Valley Sanitary District, and the Fairfax Police, Public Works and Building Department(s) did not provide conditions of approval or comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve Application No. 17-09, per the plans entitled, "156 Toyon Drive, Fairfax", and stamped "Received" on October 6, 2016.

ATTACHMENTS

Attachment A-Resolution No. 17-08

Attachment B-Elevational Differences with Adjacent Properties

Attachment C-Photo from 310 Cypress Drive

RESOLUTION NO. 17-08

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Convert Under Floor Area to Storage Space at 156 Toyon Drive

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit to convert 247 square feet of unconditioned, under floor area beneath the first-story of a single-family residence to storage space at 156 Toyon Drive; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on March 30, 2017, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the project's requested discretionary Use Permit as long as certain conditions, listed below, are met; and

WHEREAS, the Commission has made the following findings:

Conditional Use Permit-

1. The 247-square-foot storage area is similar in size, mass, design and location on the site to other residential structures in the "Cascades" subdivision. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The conversion of the existing area to storage space will not result in changes to the existing Floor Area Ratio and Lot Coverage estimates which are currently below the maximum thresholds for the Residential RS 6 Zone. Therefore, the development and use of the property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case as the project will improve the functionality of the residence. Therefore, the project is in the public interest and will enhance the general health, safety and welfare of the community.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. This approval is limited to the development illustrated on the plans entitled, "156 Toyon Drive, Fairfax", stamped "Received" on October 6, 2016.
2. During the construction process, all construction-related vehicles including fixture/supply or equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case-by-case basis with prior notification from the project sponsor.
3. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
5. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.
6. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
7. During construction, the property owner and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.32 of the Town Code entitled, "Urban Runoff and Pollution Prevention".
8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application No. 17-08. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 17-08 will result in the job being immediately stopped and red tagged.
9. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the

purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

Ross Valley Fire Department

1. The required water flow of the closest hydrant shall be a minimum of 10,000 gallons per minute. Per WUI code Section 101.5, additions and alterations can be made to existing buildings when the building meets the current code. To meet current code for this project, the fire flow would need to be increased or a 50% reduction is permitted when the building is equipped throughout with an automatic fire sprinkler system.
2. Maintain around the structures an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Contact the Ross Valley Fire Department for more information.
3. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
4. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs or additions that exceed one thousand dollars. CO alarms shall be located outside of each dwelling unit sleeping area, in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit, including a basement.
5. Address numbers at least 4-inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally laminated (backlit), placed to a light or be reflective numbers.

6. Applicant may propose alternate materials or methods in accordance with Section 103.3. All approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

Miscellaneous Conditions

1. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services. Waiver of an agencies conditions in writing by that agency will not require further Planning Commission review.
2. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.
3. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.
4. A construction management plan shall be submitted to the Building Official with the building permit application and shall become a condition of building permit issuance.
5. Any new exterior lighting installed for the storage area, including landscape lighting, shall be LED and shall direct light downward.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 30th day of March, 2017, by the following vote:

AYES:

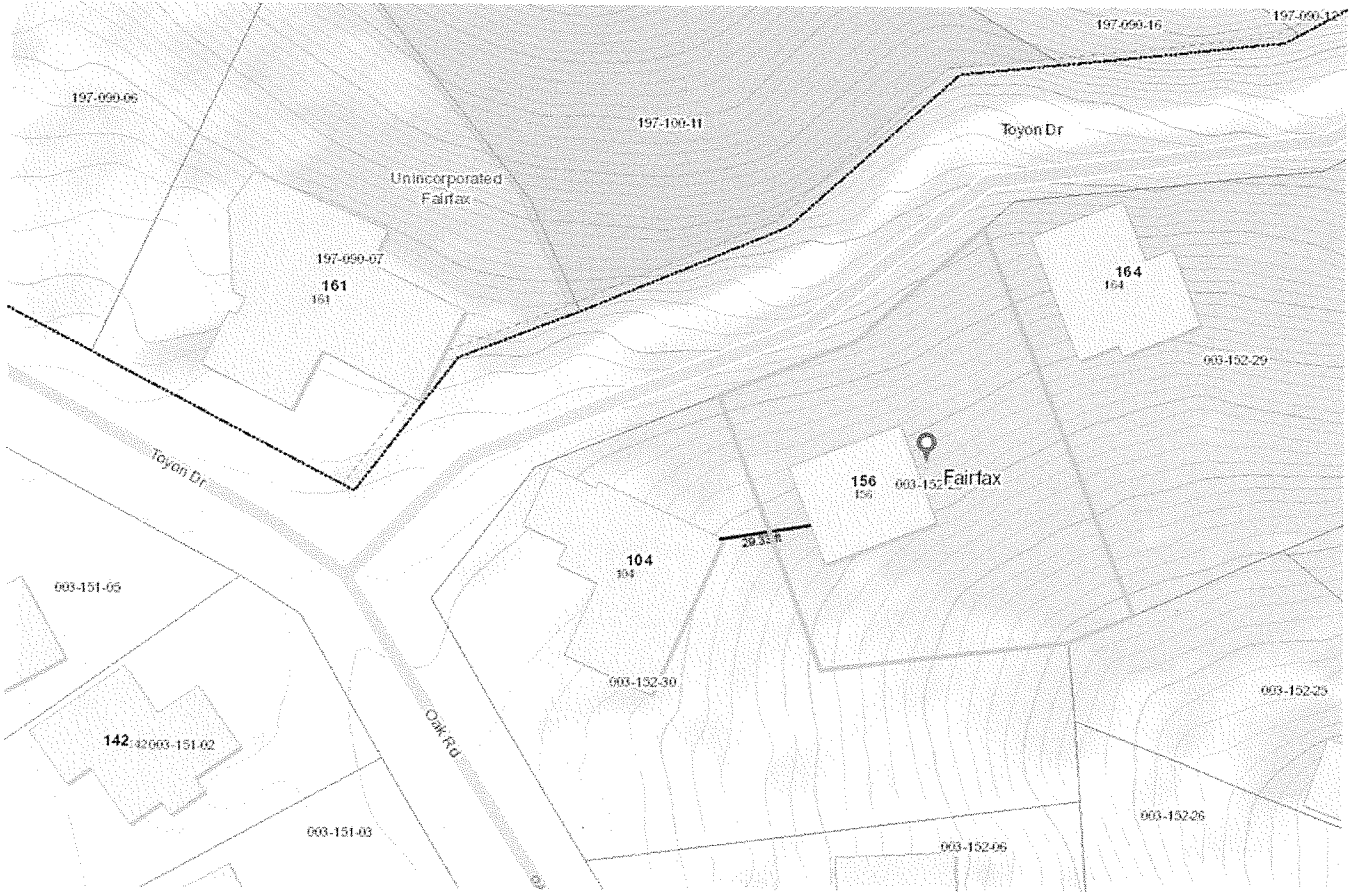
NOES:

ABSTAIN:

Chair, Fragoso

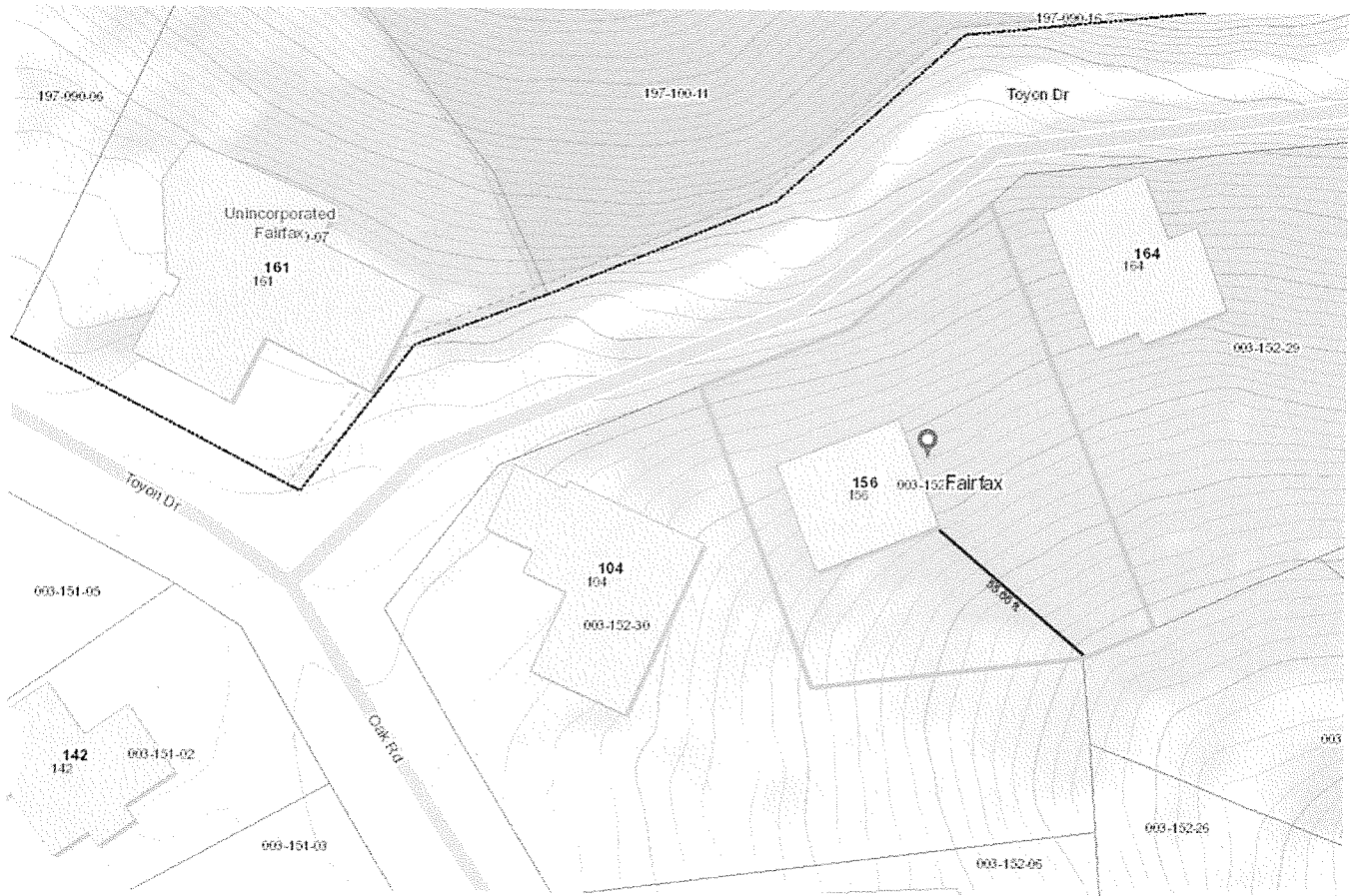
Attest:

Garrett Toy, Acting Director of Planning and Building Services



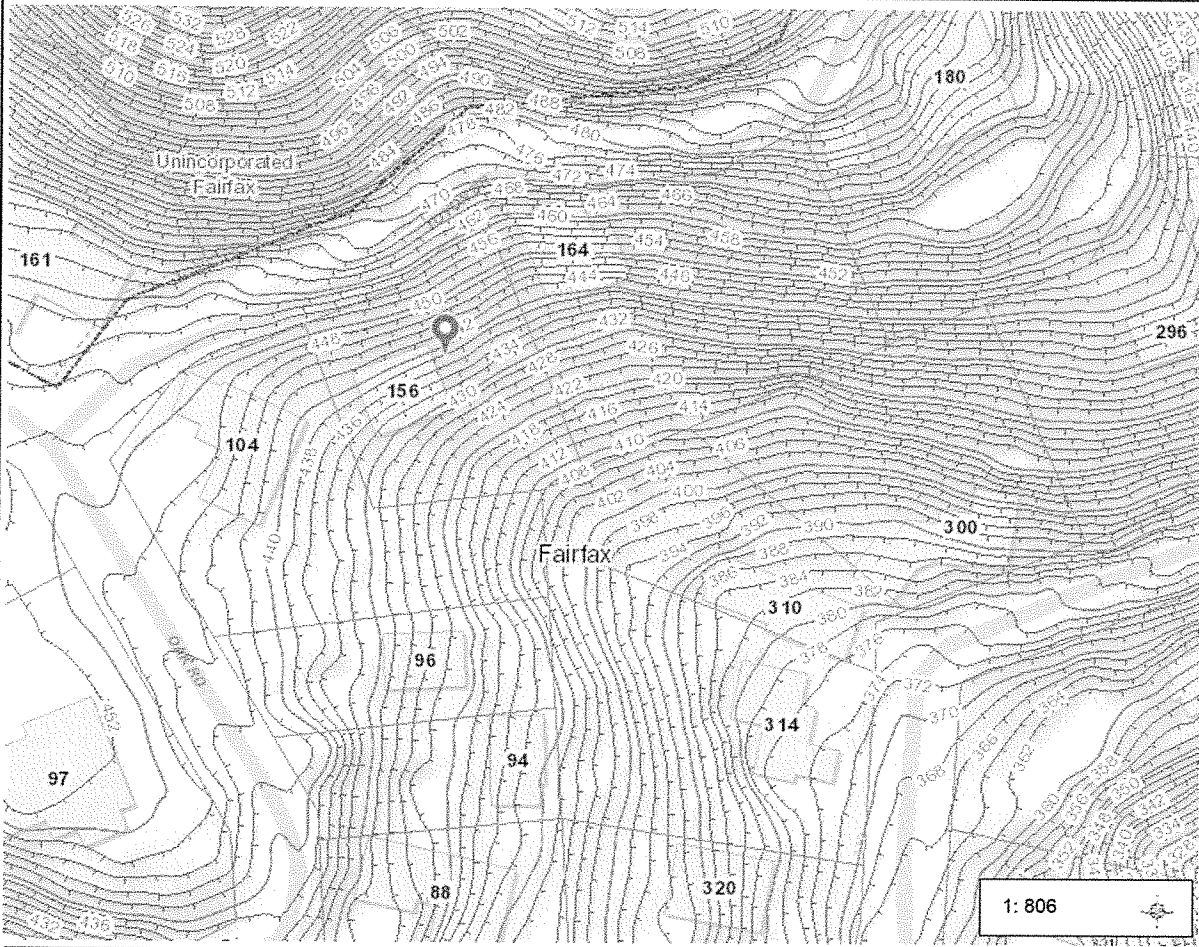
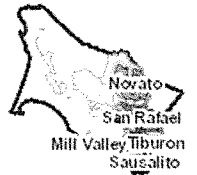
ATTACHMENT B







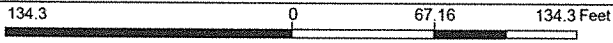
Map Report



Legend

- Parcel Note**
 - ◻ easement
 - ◻ centerline
- Address**
 - ◻ Parcel
 - ◻ Condominium Common Area
 - ◻ Mobile Home Pad
- City**
 - ◻ City
 - ◻ Community
- Marin County Legal Boundary**
 - ◻ Other Bay Area County
- 2-foot Elevation NAVD88**
 - Interior
 - Index

1: 806



NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



ATTACHMENT C
view from
Photo- 310 Cypress Dr.